IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

WEDNESDAY, THE EIGHTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and
THE HON'BLE Mr. JUSTICE M. NARAYANA REDDY

WRIT APPEAL NO : 74 of 2002 & W.P. No. 22881 of 2001

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Writ Appeal No.74 of 2002

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 21/12/2001 in WVMP NO.3454 OF 2001 IN WPMP NO. 28845 OF 2001 in WP NO : 22881 OF 2001 on the file of the High Court.)

1. U. Apparao, S/o. Kanakaraju, Night Watchman, aged about 26 years, Seetampeta, Rajahmundry-4, East Godavari District.

2. K. Basava Raju, S/o. Kannaiah, aged about 46 years,

Day watchman, Venkateswara Matam Street, Devi Chowk, Rajahmundry, East Godavari District.

Appellants

AND

1. Regional Joint Commissioner, Endowments Department, Multi Zone-I, Kakinada, E.G. District.

2. Sri Nagavarapu Butchiabbayi Choultry, Main Road, Rajahmundry, E.G. District., rep. by its Person-in-Management.

.....RESPONDENTS

Counsel for the appellants : Ms. G. Madhuri appearing for Mr. D.SURESH KUMAR

Counsel for the Respondent No.1:G.P. for Endowments

Counsel for the Respondent No.2 : MR.METTACHENDRA SEKHAR RAO

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WRIT PETITION NO : 22881 of 2001

Between:

1. U. Apparao, S/o. Kanakaraju, Night Watchman, aged about 26 years, Seetampeta, Rajahmundry-4, East Godavari District.

2. Basava Raju, S/o. Kannaiah, aged about 46 years,

Day watchman, Venkateswara Matam Street, Devi Chowk, Rajahmundry, East

Godavari District.

AND

1. Regional Joint Commissioner, Endowments Department, Multi Zone-I, Kakinada, E.G. District.

2. Sri Nagavarapu Butchiabbayi Choultry, Main Road, Rajahmundry, E.G. District., rep. by its Person-in-Management.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ or order or direction more particularly one in the nature of Writ of Certiorari declaring the action of the Respondent No.1 in imposing liabilityof loss of wood on the petitioners as illegal, arbitrary and violative of Article 21 of the Constitution of India besides being totally without jurisdiction and it is further consequentially prayed that this Hon'ble Court may be pleased to quash the order in Rc. No. A1/1010/2001, dated 8.10.2001 of the respondent No.1 and pass such other order or orders as deemed fit and proper in the facts and circumstances of the case.

Counsel for the Petitioners:Ms. G. Madhuri appearing for Mr. D.SURESH KUMAR

Counsel for the Respondent No.1:G.P. for Endowments

Counsel for the Respondent No.2 : MR.METTACHENDRA SEKHAR RAO

The Court made the following Common Judgment:

Writ Appeal is against the order passed by the learned single judge in W.V.M.P. No. 3454 of 2001 in W.P.M.P. No. 28845 of 2001, dated 21.12.2001, vacating the ex-parte interim order.

With the consent of the parties, we have taken up the writ appeal as well as the writ petition for hearing, inasmuch as the file relating to the enquiry conducted with respect to loss of the old building wood of Sri Nagavarapu Butchi Abbaiah Choultry,

Rajahmundry is produced before the Court.

We have perused the entire record.

The enquiry was conducted against the Inspector, Endowments Department, Rajahmundry on the allegation that the said Inspector had taken away old Building wood from Sri Nagavarapu Butchi Abbaiah Choultry, Rajahmundry to his sister's house. Enquiry was conducted on the basis of a complaint received from M.Satyanarayana. Appellants-writ petitioners are Night and Day watchmen. The enquiry is not directed against them. They were only examined as witnesses during the enquiry. The Executive Officer was found to have taken away the old wood to his sister's place. Therefore, M. Raghunath, Regional Joint Commissioner of Endowments Department, who conducted enquiry into the mater has submitted his report on 8.10.2001 opining that no action can be taken against the Executive Officer, since the Executive Officer had expired. He, however, reported that since the Night and Day watchmen did not report the matter to higher authorities, they should be held responsible for the loss incurred to the institution. Accordingly, enquiry proceedings were initiated against the appellants, which was challenged in the impugned writ petition.

Earlier, interim order was granted by the learned single judge, but, later on it was vacated and thus this appeal has been preferred by the appellants.

Having perused the enquiry report which was filed and having heard the learned counsel for the parties, we are of the view that no enquiry was directed against the appellants herein and merely on the basis of the report of the Enquiry Officer, proceedings were initiated against them. Such an action is contrary to the very basic principles of natural justice. It was but necessary for the respondents to appraise the appellants of the action proposed against them. Thus, by supplying copy of the enquiry report to them and after getting their explanation, the respondents ought to have passed the order impugned in the writ petition. The order being bad in law is liable to be set aside.

The writ appeal is allowed. The writ petition is also allowed. The proceedings of recovery initiated against the appellants are held to be vitiated and are accordingly set aside with liberty reserved to the respondents, in case, they so like, they may proceed against the appellants in accordance with law after affording due

opportunity of hearing to them.

In the result, the writ appeal and the writ petition are allowed.

_____ DEVINDER GUPTA, CJ

Date: 8th December, 2004

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M. NARAYANA REDDY, J

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To

1. Regional Joint Commissioner, Endowments Department, Multi Zone-I, Kakinada, E.G. District.

2. Sri Nagavarapu Butchiabbayi Choultry, Main Road, Rajahmundry, E.G. District., rep. by its Person-in-Management.

3. Two C.Cs. to the Government Pleader for Endowments, High Court Buildings, Hyderabad. (OUT)

4. Two C.D. copies